IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1771 OF 2005

Mr.Jawaharlal R.Sharma & Ors. ..Petitioners.

V/s.

The State of Maharashtra & Ors. ..Respondents.

Mr.A.R.Pitale for petitioners.

Mr.U.V.Nikam, APP for State.

CORAM: A.M.KHANWILKAR,J

DATE : NOVEMBER 23, 2005.

P.C. :

1. Heard counsel for the parties. Perused record.

2. I see no infirmity in the approach adopted by the lower court in rejecting application Exh.4 by the impugned order dated 3rd May, 2005. The only ground on which the applicant has approached this court for discharge is on the assertion that the person allegedly murdered is said to be alive, which position can be discerned from the evidence collected by the Investigating Agency. Even so, whether the said person who is allegedly murdered is alive, is defence available to the accused, is a matter of trial. Viewed in this perspective, that argument

cannot be the basis for discharge. Hence, rejected.